

HON. RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DONG WAN PARK,

Defendant.

NO. 05-5811RBL

ORDER GRANTING STIPULATED
MOTION TO CONTINUE TRIAL
DATE

THIS MATTER having come before the Court on the stipulated motion of the parties for an order continuing the trial date, and the Court having considered the stipulated motion of the parties, together with the balance of the records and files herein, the Court now finds and rules as follows:

The defendant, Dong Wan Park, is charged by Indictment in the Western District of Washington with three counts of visa fraud, in violation of 18 U.S.C. § 1546(a). Defendant was arrested on November 18, 2005. Defendant made his first appearance and was arraigned on the charges that same day before the Magistrate Judge in the Western District of Washington. Defendant entered a plea of not guilty. Defendant is currently released pending trial on bond. Trial is set for January 17, 2006.

The parties are seeking an order continuing the trial date from January 17, 2006, to May 8, 2006, on the ground that the ends of justice served by a continuance outweigh the best interest of the public and the defendant in a speedy trial. Specifically, the failure to grant a continuation would likely result in a miscarriage of justice, pursuant to 18 U.S.C.

1 § 3161(8)(B)(i), and would unreasonably deny the defendant or the attorney for the
2 Government the reasonable time for effective preparation, taking into account the
3 exercise of due diligence, pursuant to 18 U.S.C. § 3161(8)(B)(iv).

4 Current defense counsel was only recently retained and permitted to replace prior
5 counsel by order of this Court on December 2, 2005. Although the government had
6 provided preliminary discovery materials to former counsel, current counsel did not
7 receive the discovery materials until December 7, 2005. Defense counsel has alerted the
8 government that the Defendant is in possession of evidence relevant to his defense but
9 will take some time to produce such materials to the government. A discovery conference
10 will be necessary to discuss outstanding discovery issues. Due to the complexity and
11 depth of the discovery materials, which includes evidence from foreign sources such as
12 institutions and government agencies located in South Korea, both the government and
13 the defendant agree that more time is necessary to investigate and analyze the evidence in
14 order to effectively prepare for trial.

15 Therefore, it appearing to the Court that the failure to continue the trial date would
16 likely result in a miscarriage of justice, pursuant to 18 U.S.C. § 3161(8)(B)(i), and would
17 unreasonably deny the defendant or the attorney for the Government the reasonable time
18 for effective preparation, taking into account the exercise of due diligence, pursuant to 18
19 U.S.C. § 3161(8)(B)(iv), and it further appearing to the Court that the ends of justice
20 served by granting the requested continuance outweigh the interest of the public and the
21 defendant in a speedy trial,

22 IT IS HEREBY ORDERED that the stipulated motion of the parties to continue the
23 trial date is GRANTED;

24 IT IS FURTHER ORDERED that the trial date shall be continued from January 17,
25 2006, to **APRIL 24, 2006 at 9:00 a.m.** The Pretrial Conference is reset to **April 18,**
26 **2006 at 9:00 am.** Pretrial Motions cutoff is extended to **March 6, 2006.**

27 IT IS FURTHER ORDERED that the period of delay from January 17, 2006, until
28 April 24, 2006, is excludable time, pursuant to 18 U.S.C. § 3161(h)(8)(A), for the

1 purpose of computing the time limitations imposed by the Speedy Trial Act, 18 U.S.C. §§
2 3161-3174.

3 Having advised the Court through the representations of counsel that he has agreed
4 to waive his speedy trial rights under the Speedy Trial Act, 18 U.S.C. §§ 3161-3174, and
5 that he has further agreed that the period from January 17, 2006, through APRIL 24,
6 2006, at 9:00 a.m. shall be an excludable period of time pursuant to 18 U.S.C. §
7 3161(h)(8)(A), the Defendant shall immediately execute and file formal waiver of his
8 speedy trial rights documenting his agreement to the continuance and to the exclusion of
9 time.

10 IT IS SO ORDERED this 16th day of December, 2005.


RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE

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14 Presented by:

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